

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTER DIVISION

CARLTON THURMOND,

Plaintiff,

v.

J. MILLS STAR # 12161, D. BROWN
STAR # 13369, R.P. HAUSER and other
UNIDENTIFIED Chicago Police Officers,
Defendants.

)
) FILED: MARCH 26, 2008
) 08CV1747 NF
) JUDGE BUCKLO
) MAGISTRATE JUDGE NOLAN

COMPLAINT

NOW COMES the Plaintiff, CARLTON THURMOND, by and through his attorney in this regard, GIGI GILBERT, and complaining of Defendants, J. MILLS STAR # 12161, D. BROWN STAR # 13369, AND R.P. HAUSER and other unidentified Chicago officers, and states as follows:

NATURE OF THE CASE

1. This suit arises from the violation of civil rights of Plaintiff, CARLTON THURMOND, for arrest without probable cause, and use of excessive force in violation of Title 42 U.S.C. section 1983 and pendent state law claim for malicious prosecution.

JURISDICTION

2. This action is brought pursuant to 42 U.S.C. section 1983. Jurisdiction is based upon 28 U.S.C. section 1331, 1332 and 1367. This court has pendent jurisdiction over the state law claim for malicious prosecution. Plaintiff demands trial by jury.

VENUE

3. The violation of civil rights alleged herein were committed within the Northern District of Illinois to wit: the City of Chicago, County of Cook, State of Illinois. This action properly lies in the United States District Court, Northern District of Illinois, Eastern Division.

PARTIES

4. Plaintiff, CARLTON THURMOND ("THURMOND"), is a resident of the City of Chicago, County of Cook, State of Illinois.

5. Defendants, J. MILLS STAR # 12161, D. BROWN STAR # 13369, AND R.P. HAUSER and other UNIDENTIFIED POLICE OFFICERS were at all times relevant hereto, employed as police officers by the Chicago Police Department and acting under color of state law.

COUNT I - VIOLATION OF CIVIL RIGHTS **ARREST WITHOUT PROBABLE CAUSE**

6. On or about July 17, 2006, Plaintiff, THURMOND, was arrested without a warrant and without probable cause by Defendants J. MILLS STAR # 12161, D. BROWN STAR # 13369, AND R.P. HAUSER and other UNIDENTIFIED Chicago police officers.

7. The conduct of Plaintiff, THURMOND, prior to his arrest could not be reasonably interpreted by the Defendants J. MILLS STAR # 12161, D. BROWN STAR # 13369, AND R.P. HAUSER AND OTHER UNIDENTIFIED OFFICERS as constituting probable cause that THURMOND had committed, was committing, or was about to commit a crime.

8. The facts and circumstances within Defendant J. MILLS STAR # 12161, D. BROWN STAR # 13369, AND R.P. HAUSER AND OTHER UNIDENTIFIED OFFICERS 'S knowledge would not lead reasonable police officers to believe that THURMOND had committed, was committing or was about to commit a crime.

9. Defendants J. MILLS STAR # 12161, D. BROWN STAR # 13369, AND R.P. HAUSER AND OTHER UNIDENTIFIED OFFICERS were acting under color of state law as members of the Chicago Police Department at all relevant times herein.

10. Defendants J. MILLS STAR # 12161, D. BROWN STAR # 13369, AND R.P. HAUSER AND OTHER UNIDENTIFIED OFFICERS intentionally violated THURMOND's federally protected constitutional right not to be arrested or seized without probable cause in violation of the Fourth Amendment to the Constitution of the United States.

11. Defendants J. MILLS STAR # 12161, D. BROWN STAR # 13369, AND R.P. HAUSER AND OTHER UNIDENTIFIED OFFICERS ' acts were done with malice and/or reckless indifference to THURMOND's federally protected rights.

12. As a direct and proximate result of Defendants J. MILLS STAR # 12161, D. BROWN STAR # 13369, AND R.P. HAUSER AND OTHER UNIDENTIFIED OFFICERS' actions, THURMOND, suffered and continues to suffer mental anguish, psychological and emotional distress, pain and suffering, economic losses, some or all of which may be permanent.

13. As a direct and proximate result of Defendants J. MILLS STAR # 12161, D. BROWN STAR # 13369, AND R.P. HAUSER AND OTHER UNIDENTIFIED OFFICERS' actions THURMOND was deprived of rights, privileges and immunities under

the Fourth Amendment to the United States Constitution and the laws of the State of Illinois.

WHEREFORE, Plaintiff, CARLTON THURMOND, prays that this Honorable Court enter a judgment in his favor and against Defendants, J. MILLS STAR # 12161, D. BROWN STAR # 13369, AND R.P. HAUSER and other unidentified Chicago police officers for the following relief:

- (a) Compensatory damages in an amount to be determined at trial;
- (b) Punitive damages in the amount to be determined at trial;
- (c) Reasonable attorneys fees and costs; and
- (d) Such other and further relief as this court deems reasonable.

COUNT II - EXCESSIVE FORCE IN ARREST

1-13. THURMOND alleges the allegations contained in paragraphs 1-13 above as if fully set forth as paragraphs 1-13 herein.

14. Under the totality of circumstances at the time of arrest, and while THURMOND was in custody, Defendants J. MILLS STAR # 12161, D. BROWN STAR # 13369, AND R.P. HAUSER AND OTHER UNIDENTIFIED OFFICERS used greater force than was reasonably necessary to make the arrest of THURMOND, while detaining him and while he was in custody.

15. As a direct and proximate result of Defendants J. MILLS STAR # 12161, D. BROWN STAR # 13369, AND R.P. HAUSER AND OTHER UNIDENTIFIED OFFICERS' actions, THURMOND suffers and continues to suffer physical pain requiring medical care, and suffered physical and emotional pain and mental anguish some or all of which may be permanent.

16. Defendants J. MILLS STAR # 12161, D. BROWN STAR # 13369, AND R.P. HAUSER AND OTHER UNIDENTIFIED OFFICERS acted under color of state law, and intentionally used excessive force and/or unreasonable force in effecting THURMOND's arrest, in violation of his Fourth Amendment rights under the United States Constitution to be free from excessive force in violation of 42 U.S.C. section 1983.

17. Defendants J. MILLS STAR # 12161, D. BROWN STAR # 13369, AND R.P. HAUSER AND OTHER UNIDENTIFIED OFFICERS' use of excessive force and/or unreasonable force in effecting THURMOND'S arrest and while he was in custody, was done with malice and/or reckless indifference to THURMOND'S federally protected rights.

WHEREFORE, Plaintiff, CARLTON THURMOND, prays that this Honorable Court enter a judgment in his favor and against Defendants, J. MILLS STAR # 12161, D. BROWN STAR # 13369, AND R.P. HAUSER and other unidentified Chicago police officers for the following relief:

- (a) Compensatory damages in an amount to be determined at trial;
- (b) Punitive damages in the amount to be determined at trial;
- (c) Reasonable attorneys fees and costs; and
- (d) Such other and further relief as this court deems reasonable.

COUNT III - STATE MALICIOUS PROSECUTION

18. THURMOND alleges the allegations contained in paragraphs 1-17 above as if fully set forth as paragraphs 1-17 herein.

19. Defendants J. MILLS STAR # 12161, D. BROWN STAR # 13369, AND R.P. HAUSER and other UNIDENTIFIED POLICE OFFICERS, commenced criminal

proceedings against THURMOND by charging him in the Circuit Court of Cook County with Reckless Conduct in violation of 625 ILCS 5/12-5(a).

20. The charges brought against THURMOND were terminated in his favor in that the Reckless Conduct charge was “sol’d” or dismissed with leave to reinstate on September 27, 2006.

21. Defendants did not have probable cause to commence criminal proceedings against plaintiff THURMOND.

22. Defendants J. MILLS STAR # 12161, D. BROWN STAR # 13369, AND R.P. HAUSER and other UNIDENTIFIED POLICE OFFICERS acted with malice and/or reckless indifference when the Defendants initiated criminal proceedings against THURMOND.

23. As a direct and proximate result of Defendants' actions, THURMOND, suffered and continues to suffer mental anguish, psychological and emotional distress, pain and suffering, economic losses, some or all of which may be permanent.

WHEREFORE, Plaintiff, CARLTON THURMOND, prays that this Honorable Court enter a judgment in his favor and against Defendants, J. MILLS STAR # 12161, D. BROWN STAR # 13369, AND R.P. HAUSER and other UNIDENTIFIED CHICAGO POLICE OFFICERS for the following relief:

- (a) Compensatory damages in an amount to be determined at trial;
- (b) Punitive damages in the amount to be determined at trial;
- (c) Reasonable attorneys fees and costs; and
- (d) Such other and further relief as this court deems reasonable.

Respectively Submitted,

By://s// Gigi Gilbert_____

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